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The Historical Background

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The Historical Background

Reapportionment? You only whispered it in the hallowed halls of the General Assembly until members themselves started to discuss it openly less than 20 years ago. Even then few Iowans seemed interested in what it was about. Some, perhaps unintentionally, got it mixed up with appropriations and referred to it as "reappropriation." Others did not try to pronounce it. Still others, aware of long-range implications, quietly hoped it would go away. But there also were those who would not let it go away; who hoped to acquaint all Iowans with the legislature's half-century neglect of the problem.

As of April 8, 1964, their hope was being realized. By then, Iowans had been exposed often enough to the word "reapportionment" to know it meant something basic to our form of representative government and, therefore, was important to them. April 8 was the day the 60th General Assembly ended its Extraordinary Session, after seven weeks of bitter debate over this problem of reapportionment which Governor Harold E. Hughes had called on legislators to resolve: How to apportion the legislature's seats in a manner fair and equitable to all. Should they be appor-

tioned on population? On area? Or on a combination of the two? Or should other factors be considered? That was and remains the problem. Its ultimate solution may depend on guidelines from the United States Supreme Court.

The 22nd General Assembly

Ironically, there might have been no problem if Iowa's 22nd General Assembly had not sloughed its reapportionment responsibility, thereby setting precedent for the next seven legislatures. The 22nd, meeting in 1888 [legislatures met in even-numbered years until 1907] was the first ever to fail to carry out this responsibility.

Since becoming a Territory in 1838 and a State in 1846, Iowa's three Constitutions, following requirements in the Northwest Ordinance, had called for a two-house legislature, all seats on population. The seats had to be reapportioned every two years. There was one limitation: No House of Representative district could contain more than four counties. The legislature reapportioned its seats faithfully every two years until the 22nd General Assembly met January 9, 1888. It merely adopted the 1886 Reapportionment Act of the 21st General Assembly, with minor changes. So did the next seven Assemblies.

The 1904 Amendments

Consequently, population shifts were not reflected in apportionment of legislative seats for 16 years. Aware of this, members of the 29th Gen-

eral Assembly in 1902 took the first step to "legalize" failure to carry out the apportionment formula by adopting proposed amendments for it. The proposals gave the Senate 50 seats based on population, as in the past. There would be 108 House seats, one for each of the 99 counties and an extra one for each of the nine counties largest in population.

The proposals also called for reapportionment after every census, instead of every two years as required previously. This meant reapportionment every five years, for the Federal census was taken in years ending in "0" and the state census in years ending in "5," until repealed in 1936.

The proposals were adopted in identical form by the 30th General Assembly in 1904, as required for proposed amendments, and by the people November 8, 1904, at a statewide referendum. They took effect November 29, 1904, rewriting Sections 34, 35 and 36 of Article III, and Section 16 of Article XII of the Iowa Constitution of 1857.

Significantly, however, never from the time of their adoption did the legislature ever apportion Senate seats as required by the 1904 amendments. Thus, the reapportionment problem was compounded.

The 1928 Amendment

Noting this oversight, the 41st General Assembly, in 1925, took the first step to legalize it. Members adopted a proposed 11-word amendment, the

weight of which was to be felt for more than three decades. The 11 words, ". . . but no county shall be entitled to more than one (1) senator," were to be added to Section 34 of Article III as adopted in 1904. This proposal actually pulled the rug from under the population basis for apportioning Senate seats. But it had no practical effect for, as noted previously, Senate seats never had been apportioned on population as required by the 1904 amendments. Counties entitled to extra Senate seats, which they never got, now were to be denied the extra seats regardless of their populations.

The 42nd General Assembly completed the amending process required of the legislature in 1927, and the people approved the proposed amendment on November 6, 1928. It became a part of the Constitution 24 days later. And so the problem grew.

The 1941 Apportionment

The problem concerned itself only with Senate seats. Beginning with the 1904 amendments, the nine population-based House seats were apportioned periodically as required. But Senate seats were never apportioned as required and not until 37 years later were they even partially apportioned.

Members of the 49th General Assembly, aware of rumblings of discontent over failures of its predecessors to act, moved cautiously. Hoping to quiet the rumblings, they finally reapportioned four of the 50 Senate seats, affecting only 12 of 99

counties. The remaining 46 seats and 87 counties were unchanged despite wide disparities in population and even though many could have been reapportioned under the 1928 limiting amendment. So the problem was further compounded.

The 1953 Apportionment

The rumblings did not subside after the 1941 apportionment. Rather, they grew in volume and when the 54th General Assembly in 1951 ignored its duty to reapportion Senate seats, they reached a mild crescendo.

By this time even legislators reluctant to face the problem began to have some misgivings and several proposals began to appear. Some were in bill form, to carry out provisions of the 1904-28 formula, and some in resolution form proposing substitutes for that formula.

Some actually were debated openly in the House, inspiring historic remarks indicating the mood of members. One, in all seriousness, arose to declare: "We'd better do something about this problem now or the people will vote for a Constitutional Convention in 1960 and Heaven only knows what would happen if the people got ahold of this." Another member from a smaller county disagreed: "We've got 'em (big counties) where we want 'em so let's hold on to what we've got."

Nevertheless, the rumblings had become so audible in 1953 that the 55th General Assembly meeting that year moved to relieve the tension by

reapportioning four of the 50 Senate seats not changed in 1941. This action affected nine counties. None of the remaining seats were reallocated, despite ever increasing population disparities. So the problem continued to grow.

Gubernatorial Proposals

Now the problem was drawing greater public attention as people realized they could vote in 1960 to hold a Constitutional Convention [which lost 470,257 to 534,628] where fair apportionment might be achieved. Governor Leo A. Hoegh, Republican, took official note of the pending reapportionment problem, however, in his inaugural address to the 56th General Assembly in 1955 and again in his swan song speech to the 57th General Assembly in 1957. So did the Republican and Democratic party platforms.

Governor Herschel C. Loveless, Democrat, made reapportionment the No. 1 recommendation in his inaugural address to the 57th General Assembly. When that legislature paid no more than lip service to the growing problem, Governor Loveless appointed the following 16-member bipartisan Governor's Reapportionment Action Committee to rally support:

Frank T. Nye, Cedar Rapids, chairman; Senator C. Joseph Coleman, Clare; James Croghan, Woodbine; Senator Duane E. Dewel, Algona; Charles Duchon, Sioux City; Mrs. Elliott Dudley Full, Iowa City; Dr. C. Edwin Gilmour, Grinnell; Mrs. Roland Grefe, Des Moines; Carl Hamilton, Iowa Falls (who succeeded Donald A. Norberg,

Albia, resigned); Rep. Arthur C. Hanson, Inwood; Rep. Scott Swisher, Iowa City; Emmet Tinley, Council Bluffs; Mrs. Harvey Uhlenhopp, Hampton; Kenneth Wagner, West Liberty; Maynard Waxenberg, Davenport, and Robert G. Wyth, Cedar Falls.

This committee met periodically for two years, stirring up public interest and writing a proposed substitute for the 1904-28 amendments to submit to the 58th General Assembly in 1959. The proposal had the unanimous support of the committee, even though it was somewhat revolutionary in that it called for crossing county lines, where necessary, to create equal-population districts for the House. Senate seats were to be based on area with a slight population factor.

The 1959 Legislature

The proposal met early death in the overwhelmingly Republican Senate when the 1959 legislature convened. But it sparked action that resulted in moving the Assembly off dead center. Hardly a day passed without some reapportionment action. But, in the end, the two chambers could not agree on a plan, nor could any of three conference committees come up with a compromise both would accept. But the groundwork for future action had been laid.

The 1961 Legislature

Action finally came during the 59th General Assembly's session in 1961. Governor Norman A. Erbe, Republican, joined his two immediate prede-

cessors by calling for reapportionment in his inaugural address. This time the legislature responded with three separate actions:

1. The nine population-based House seats were reapportioned as required.

2. The Senate seats, on advice of Attorney General Evan L. Hultman, were reapportioned as required for the first time since 1904. The constitutionality of this bill was challenged in Iowa County District Court and ultimately upheld by the Iowa Supreme Court in an 8 to 0 decision.

3. The Shaff Plan was adopted as the first step toward replacing the 1904-28 formula.

So the legislature faced the problem squarely at last, and dealt with it.

The 1963 Legislature

There was no doubt that the 60th General Assembly would pass the Shaff Plan in 1963 and submit it to the people. Even so, Governor Hughes, Democrat, in his inaugural address pleaded with the legislature to junk it in favor of a more equitable plan. His plea fell on deaf ears, for the legislature adopted the Shaff Plan and set December 3, 1963, for a special election to submit it to the people. And so the Great Debate began.